/254 cont./

554 group, which implies in fact a lack of social backing; b) eco-
558 nomic losses which prevent their maintaining their clan or family rank and, therefore, their individual prestige. c) the breaking of the regimen for personal security and collective stability which implicitly carries /255/ with it the lowering of status, because when a group which has suffered considerable losses in number as well as in capital commits a punishable act against an individual of a superior clan, it becomes liable, not to the legal negotiation for indemnity but to extermination as a free unit, because the offended group, being superior, will not deal with the offenders on a legal basis. Furthermore, if the infraction wrongs a group weakened in its economy and in the number of its male members, the indemnity is not governed by legality but rests on the individual judgment of the powerful offender, in conflict with whom the offended one cannot put up sufficient coercive force to insist on an adequate indemnity.

671 This phenomenon is due to a clear and precise fact within
627 the social mesh that holds the clans together in La Guajira: questions of law are applicable only when the clan groups who are challenging each other are equally equipped in economic strength and in fighting men. It is only then that the legal action of the arbitrators can be brought into play to negotiate an arrangement equitable to both sides. Law, therefore, is regulated by equality of strength. But once this equilibrium is broken, law no longer exists as an institution if it is contrary to the will of the /stronger/ injured side, which will impose the indemnity by means of its strength and according to its personal ambition, sacrificing the offender both socially and economically, or when the injury has been inflicted on a weaker group, allowing the aggressive action to go unpunished.

4: Petrullo E-5 (1935) 1937
SC13 Goajiro SC13

the men speak some Spanish in addition to their native language. Some of them know how to read and write. They are almost entirely pastoral, possessing great herds of horses, asses, sheep, goats, and cattle. They have borrowed a great deal from the Europeans but they have also kept their own culture to a remarkable degree. As usual, native elements are most strongly present in the non-material phases of culture. Unfortunately they are not united or organized into a modern state, though against all foreigners they stand together as a unit. Authority is acquired by certain caciques through their wealth and membership in the 'casta,' the major social grouping in Guajiro society. Each casta claims a mythological origin and holds sovereignty over a well-defined territory. Many of these castas or social groupings are further subdivided. Each casta has its caciques whose function is chiefly to settle disputes and whose position is inherited, matrilineally. The oldest of them is allowed more authority, but generally it is the wealthiest man, and the one who can marshal more retainers, armed with rifles and revolvers, who is listened to with greater respect. There are further divisions in Guajiro society. At the top are the caciques and their families who are rich and powerful. The next group is composed of peons or retainers in the service of the upper stratum, and at the bottom are the 'slaves' who have been born in that condition or have been enslaved following an offense to some powerful group, and who can even be let out to work for planters in the sugar fields of Zulia. The life of the poor people has not changed much since early times. Polygamy is widely practised, as is also concubinage, by the wealthier men. Each wife lives in her own rancho and there awaits the occasional visit of her husband. The children inherit property and social affiliations through the mother. Disputes that arise within a casta are settled by arbiters chosen by the families of the litigants. Disputes inter-casta may be settled by arbitration if violence is not desirable. Generally the killing of an individual gives rise to armed action with an eventual composition by payment.

My informants attempted to demonstrate the difference be-

4: Petrullo E-5 (1935) 1937
SC13 Goajiro SC13

671 tween law and custom in Guajiro society by a variety of illustrations. One of them said in effect:

574 626 671 If a cacique visits me and I fail to kill a sheep in honor of his visit and to feast him in accordance with the dignity of his rank and my wealth, I have broken a custom of my people. However, though I offend him by such negligence my guest may take no action to redress the wrong other than to inflict the same discourtesy on me if the opportunity should arise. He may seek neither redress in violence nor composition in payment. My only punishment may be the acquisition of a bad name among my people.

586 671 684 But if I visit one of my wives at her rancho and she fails to kill a sheep from her own flocks to feast me, refuses me her person, neglects to supply me with hammocks, saddle-bags, and other articles made by women, or refuses me shelter, she will have broken a 'law'; that is, she will have broken the marriage contract. In this case I may demand from her and her family payment or a divorce. In the latter case her family would have to return to me the bride-price plus any increase in the herds but less an amount considered fair for my having exercised sexual privileges over her, though I may demand even this if she marries again. In case her family refuses to adjust [626] the matter in accordance with our law I may appeal to my family for help in obtaining my just rights. I should be justified in having recourse to violence. However, the law is so well understood that it would not be necessary to resort to such drastic measures generally.[1]

671 [115] [177] These informants were acquainted to some extent with Colombian and Venezuelan laws and were attempting, no doubt, to classify their own customs in accordance with European practices. Nevertheless it is an indication that in their minds there does exist a class of offenses for which one may seek composition even through violence, and a class that is in the category of merely moral obligations though investigators may not always draw an equally fine distinction. [114] Simons, for example, in discussing Guajiro law speaks of injury to oneself as giving rise to a legal obligation for composition. 574 626 672 602 My informants, on the contrary, distinguished it from that class of wrongful acts. If a man cuts himself, his father and father's relatives receive an expiatory offering. Had one of my informants, the son of a rich cacique, cut himself he would have given a small barrel of rum and five or more sheep to his

4: Petrullo E-5 (1935) 1937
SC13 Goajiro SC13

father's relatives who would eat the meat and drink the rum immediately, a feast to which the mother's relatives might be invited as a gesture of courtesy. The offering of rum and meat is voluntary, and even a friend may ask for something as an indication of deep personal interest in the welfare of the injured person. If the injured man makes no offering, no action is taken by anyone to make him do so, but he will acquire a 'bad name.' A Guajiro has a moral obligation to avoid shedding his own blood, but not a legal obligation. Since the father takes care of his son during his lifetime, this obligation is directed towards him and his relatives, but is extended to include any good friend.

Another example of the same distinction is the case where a son asks his father for a particular horse or object possessed by the latter, as a gift. The father is morally bound to grant the request, but there is no legal compulsion to do so. I gave a cacique a fine hunting knife which pleased him greatly. To my surprise his son was proudly wearing it the following day. On inquiring about it the cacique told me that his eldest son had asked for it. Had he refused to give it he would have been considered a bad father. The son inherits nothing from his father on the death of the latter, but while he is alive the son may beg anything within certain limits set by precedent. This moral obligation to give up a prized possession when asked for by one's sons is extended to include close friends.

Allowing the Guajiro to make their own distinctions, let us turn to a consideration of their 'laws.' The commission of certain acts, which in our society would give rise to criminal prosecution, in Guajiro society are considered matters to be settled by the parties concerned. Criminal law is practically non-existent. There is no body politic, properly speaking, that metes out punishment whether or not the injured party seeks redress, and social pressure can hardly be of any importance in a society that protects the individual through the instrument of family and casta membership. In only one case does there seem to be an approach to concerted social action. If an individual has caused his family much trouble and is incorrigible, if his family has been called upon to pay for his mis-

7:Bolinder T-5 (1920, 1955) 1957
SC13 Goajiro SC13

CHAPTER 7

Laws with No Tablets

As we were riding through a parched and savage landscape we saw at a distance a number of mounted warriors divided into two groups, which were drawn up in semi-circles facing each other. We thought there must be some ceremony in progress and wanted to ride across. They were all magnificently got up and armed to the teeth with bows, arrows and guns. Our Indian guide stopped us.

'Be careful! Be careful! That is a *purchi!*'

We knew what that meant. A dispute had arisen between two clans, through someone having been offended, robbed or perhaps killed. The victim's family had asked for help and the matter was now to be settled at a meeting with the offender's clan. Damages would be demanded and paid, or there would be a fight—the start of a blood-feud. One should be careful not to get involved in that sort of thing.

These Indians have no police, no authority that dispenses justice; they have to judge and settle matters themselves with the help of their families, yet in accordance with their laws. These are curious, detailed and logical. They are, of course, unwritten, mere customary rights, but they are strictly observed and applied with the utmost consistence. Before we crossed into Indian territory, the Creoles had urged us to make ourselves acquainted with the Indians' laws, as otherwise we could get into trouble quite unwittingly.

Soon after seeing the purchi we met the region's most powerful chief, Mauana. We were on our way to a small rancho, when we caught sight of some Indians working on a cactus fence. We wanted to film them, and had just got

7:Bolinder T-5 (1920, 1955) 1957
SC13 Goajiro SC13

already have talked with both parties and know their points of view. One can imagine what takes place. The killer's family wishing an amicable settlement: 'It is best that we do not begin a war, brothers,' says their leader. He offers reasonable compensation, paints a picture of the horrors of war, the continual fear of attack, the burning houses, the women violated and enslaved, the blood-feud continuing from generation to generation, and, by way of contrast, describes the calm of peaceful work.

The other side are spoiling for a fight. 'I am rich and need no damages. My men are brave and prepared for a fight. I wish that we measure our strength.'

If a settlement is not arrived at, a fresh meeting is arranged, and meanwhile there is a state of latent war. Even if a fine is agreed upon, peace is not restored until the fine has actually been paid. This is probably done in stages, and that is why the Creoles say that the Indians can kill each other on the instalment system.

To bring about another's death, whether intentionally or unintentionally, has grave consequences for the person responsible. The fine that has to be paid is often ruinous. The homicide becomes indebted to his relatives who have to help him pay. Also, for magical reasons, he has to submit to a lengthy period of isolation and to certain restrictions which prevent him attending to his affairs and make him endure certain privations.

If a white man has killed an Indian, he should try to get to safety outside the peninsula, because even if he pays a fine for manslaughter, the Indians will seek his life. Three white men must die for each Indian killed, according to the old rule. They long insisted on regarding all white people as being of the one clan, though nowadays they know that they are split up into different peoples. They would now never dare extend vengeance for an injury inflicted by a native mulatto to, say, a fair-haired foreigner from the north.

The foregoing are but a few points of Guajiro law which is really much more complicated than these would make it appear. The law ought really to be the same for all, but

7:Bolinder T-5 (1920, 1955) 1957
SC13 Goajiro SC13

671 when it is a case of getting one's rights, the men of property and the members of the big clans are nowadays favoured. All this and much more Mauana and his friends told us, things it was useful and even necessary for us to know.